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from organisational fragmentation to interest  
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**THE AMENDMENT OF THE LABOUR CODE IN ROMANIA.  
EMPLOYERS' ASSOCIATIONS AND TRADE UNIONS:  
FROM ORGANISATIONAL FRAGMENTATION  
TO INTEREST AGGREGATION**

RAMONA COMAN\*, NINUCIA PILAT\*

**1. Introduction**

Research in the field of functional representation<sup>1</sup> in Central and Eastern Europe has evolved significantly over the last few years<sup>2</sup>. However, it still occupies a minor place compared with literature relating to political parties or party systems in this region. Shyly started at the beginning of the 90s, the research on interest groups and social partners has been developed progressively. Scholars have paid particular attention to the countries known for the dynamism of their civil societies under the communist regimes, or for their democratic tradition before the establishment of communism in the region.

Accordingly, if in the first part of the decade, researchers showed particular interest to the emergence of new political actors or to the introduction of a democratic legal framework, attention has gradually turned from the institutional or constitutional aspects of the triple transition(s)<sup>3</sup> to two

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<sup>1</sup> For the purpose of this paper, functional representation refers to the semi-institutionalised patterns of conduct and consultation between permanent officials and the representatives of interest organisations. A similar definition is proposed by M. BRENNER, (1969), "Functional Representation and Interest Group Theory: Some Notes on British Practice", *Comparative Politics*, vol. 2, no. 1, 1969, pp. 111-134.

<sup>2</sup> See A. AGH *et al.*, *Parliaments and Organized Interests: The Second Step*, Hungarian Centre for Democracy Studies Foundation, Budapest, 1996; O. PEDERSEN, K. RONIT, J. HAUSNER, "Organized Interests and the Labour Market in Postcommunist Europe", *American Behavioural Scientist*, vol. 38, no. 5, 1995, pp. 741-759; D. FINK-HAFNER, "Organized interests in the policy-making process in Slovenia", *Journal of European Public Policy*, vol. 5, no. 2, 1998, pp. 285-302; N. SOLORZANO-BORRAGAN, "The Organisation of Business Interests in Central and Eastern Europe for EU Representation", in J. Greenwood (ed.), *The Challenge of Change in EU Business*, Hampshire, Palgrave Macmillan, 2003, pp. 61-85.

<sup>3</sup> K. OFFE, "Vers le capitalisme par construction démocratique ? La théorie de la démocratisation et la triple transition en Europe de l'Est", *Revue française de science politique*, vol. 42, no. 6, 1992, pp. 923-42.

new topics. The first one is the question of accession to the European Union and its impact on the domestic politics, policies and polities<sup>4</sup>, and the second one is the relationship between state and society in the new Member States of the EU and candidate countries<sup>5</sup>. If the interest of researchers in the process of *Europeanization* may be explained by the radical transformations undergone in order to accommodate European integration<sup>6</sup> and by the explanatory power of this concept for understanding the domestic political continuity or change in the applicant countries<sup>7</sup>, interest in the state/civil society relationships emerged for two main reasons. Indeed, by addressing this question, some authors aimed at invalidating<sup>8</sup> a widespread view in the literature regarding the weakness of post-communist civil societies in the region<sup>9</sup>, while others intended to analyse the impact of European Union integration on interest politics in Central and Eastern Europe<sup>10</sup>. Therefore, some authors offered a “path dependent” analysis of the emergence of interest groups in the region, trying to explain, through case studies, “the communist legacies susceptible to affect the development of these new actors”<sup>11</sup>, while others paid particular attention to the hypothetical effects of the socialisation and learning processes resulting from the affiliation of national interest groups to European federations of interest representation. Within this frame, trade unions and employers’ associations emerge as a separate area of investigation, in the field of industrial relations.

However, if in this emergent literature there is a relative variety of aspects submitted to analysis, there still exists an imbalance as far as

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<sup>4</sup> K. GOETZ, “Making sense of post-communist central administration: modernization, Europeanization or Latinization?”, *Journal of European Public Policy*, vol. 8, no. 6, 2001, pp. 1032-1051; H. GRABBE, “How does Europeanization affect CEE governance? Conditionality, diffusion and diversity”, *Journal of European Public Policy*, vol. 8, no. 6, 2001, pp. 1013-1031; B. LIPPERT, G. UMBACH, W. WESSELS, “Europeanization of CEE executives: EU membership negotiation as a shaping power”, *Journal of European Public Policy*, vol. 8, no. 6, 2001, pp. 980-1012; D. PAPADIMITROU, “Exporting Europeanization: EU enlargement, the twinning exercise and administrative reform in Eastern Europe”, paper presented at the *European Consortium for Political Research Joint Sessions*, Turin, 22-27 April, 2002.

<sup>5</sup> T. COX, L. VASS, “Government-Interest Group Relations in Hungarian Politics since 1989”, *Europe-Asia Studies*, vol. 52, no. 6, 2000, p. 1095.

<sup>6</sup> G. PRIDHAM, “Transnational Party Cooperation and Post-Communist Politics: Evaluating Euroscepticism in Comparative Perspective”, Paper presented at the *ECPR Joint Session*, Turin, 22-27 April, 2002.

<sup>7</sup> S. HIX, K. GOETZ, “Introduction: European Integration and National Political Systems”, *West European Politics*, vol. 23, no. 4, 2000.

<sup>8</sup> FINH-HAFNER, *art. cit.*

<sup>9</sup> P. KOPECKY, C. MUDDE, “Rethinking Civil Society”, *Democratization*, vol. 10, no. 3, 2003.

<sup>10</sup> M. FOREST, “La représentation des intérêts de genre dans les nouveaux Etats membres : entre post-communisme et européanisation”, paper presented at the seminar “Société civile organisée et gouvernance européenne. Formation, recrutement et pratiques des représentants d’intérêt dans l’Union européenne”, Strasbourg, 21-23 June 2004.

<sup>11</sup> *Ibidem*.

geographical criterion is concerned. Some countries are less scrutinised than others, Romania being one of them. The apathy of civil society during the communist regime, as well as its lack of symbolic dimension<sup>12</sup> and dynamism in the first years of the transition to democracy, seems to be the two main explanations for scarce research into this matter. Under these conditions, the aim of this paper is to apprehend whether 15 years after the collapse of the communism these academic considerations are still in accordance with the Romanian political landscape.

Taking the case of trade unions and employers' associations, they are now involved in different tripartite bodies and institutions, created in the context of Romania's accession to European Union, but the question which is constantly addressed is concerned with the role that they effectively play in the Romanian labour policies.

Therefore, in the attempt to answer this question, our paper is focused on a particular policy issue, that is to say the recent amendment of the Romanian Labour Code in 2005. We will try to demonstrate that the involvement of the main social partners-employers' associations and trade unions appears to be different from the "façade" consultation previously observed. In spite of the organisational fragmentation over the last 15 years of both trade unions and employers' associations and lack of interest representation tradition, as well as the consequent weak role assumed by these actors, already noticed by various authors in different studies concerning the whole region, and partly due to the absence of crystallisation of the interests to be represented, the amendments to the Romanian Labour Code illustrate a first attempt, for each of these actors, at effectively participating in this process, through the adoption of a "labour" and "employers" position. In this respect, our assumption brings a new analytical dimension, both from an empirical and a theoretical point of view.

The paper is organised as follows: the first part will introduce our theoretical framework, drawn by Knoke's analytical perspective<sup>13</sup>. The second part is focused on the nature of the policy actors involved in this process and the power relations between them, while the third one is concerned with the peculiarities of the issue interest (the amendment of the Labour Code) under study. Some preliminary conclusions will be presented in the final in order to highlight the collective action dimension, analysed in terms of mobilisation and publicity.

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<sup>12</sup> Between 1996 and 2000 the number of civil society organisations increased, from 12.000 to 27.000 at the end of the decade. See M. DE BELLET, "La société civile roumaine des années 90. Un rapport ambigu au politique", *Transitions*, vol. XLII, no. 2, 2001, pp. 99-111; G. PIROTTE, "Société civile et transitions. Un regard sur l'évolution du projet de constitution d'une société civile en Roumanie post-communiste", *Transitions*, vol. XLIII, no. 1, 2002, pp. 111-127.

<sup>13</sup> D. KNOKE *et al.*, *Comparing Policy Networks: Labor Politics in the US, Germany, and Japan*, Cambridge, Cambridge University Press, 1996.

## 2. Analytical framework

From a theoretical point of view, the literature on interest representation has been dominated by two conceptual frameworks defined by Schmitter<sup>14</sup> in the late 70's through juxtaposition<sup>15</sup>: the pluralism and the neocorporatism. However, these two models of interest group representation have been criticised by various authors for their weak analytical dimension and explicative power, as they are confined to two descriptive dimensions<sup>16</sup>: one concerned with the "nature of the constitutive units", the second one focused on the relationship between the State and the main social actors, trade unions and employers' associations.

In spite of these limits and even if in Western democracies neo-corporatism, which brings together in a "tight policy community the state and the interest groups representing capital and labour"<sup>17</sup>, has been declared dead many times, it still attracts scholarly attention<sup>18</sup>. Thus, the first studies related to the emergence of new social actors in Central and Eastern Europe and to the new industrial relations took into account the theoretical assumptions offered by these institutional configurations in order to give a first overview on this topic. The importance of these analyses, descriptive in nature for the most part, is undeniable, so that they tried to fill a gap in the existing literature concerning the multiple changes at work in post-communist democracies. These two theoretical models allowed researchers to answer a first series of questions and to conclude that the neo-corporatism in Central and Eastern Europe is highly different from the corporatism existing in Western democracies. As the "constitutive units" and relations between them were different in this part of the region from those of their western homologues, new "labels" have been introduced in the academic literature<sup>19</sup>. Meanwhile, it has to be mentioned that

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<sup>14</sup> P. SCHMITTER, "Still the Century of Corporatism?", in P. Schmitter, G. Lehnbruch (eds.), *Trends Toward Corporatist Intermediation*, London, Sage Publications, 1979.

<sup>15</sup> L. GRAZIANO (1996), "Le pluralisme. Une analyse conceptuelle et comparative", *Revue française de science politique*, vol. 46, no. 2, 1996, pp. 195-224.

<sup>16</sup> Y. COHEN, F. PAVONCELLO, "Corporatism and Pluralism: A Critique of Schmitter's Typology", *British Journal of Political Science*, vol. 17, no. 1, 1987, pp. 118.

<sup>17</sup> D. MARSH, "Policy networks concept in British Political Science: its applicability for Central and Eastern Europe", *Hungarian Centre of Democracy Studies Foundation*, no. 71, 1993, p. 4.

<sup>18</sup> J. BLOM-HANSEN, "Organized interest and the state: A disintegration relationship? Evidence from Denmark", *European Journal of Political Research*, vol. 39, 2001, p. 391.

<sup>19</sup> Thus, Hausner qualified the relationship between state, trade unions and employers' associations in Central and Eastern Europe as a form of "proto-corporatism". Ost, for its part, called them as being an "illusory corporatism", only the "façade" of corporatism being present through the region. Wiesenthal used the term of "semi corporatism" and Iankova argued about a "transformative corporatism". See B. JESSOP, K. NIELSEN, J. HAUSNER, "Institutional Change in Post-Socialism", in *idem*, *Strategic Choice and Path Dependency in Post-Socialism*

these empirical observations are not a peculiarity of Central and Eastern Europe, due to their recent transition to democracy and market economy. In fact, in Western democracies "it has proven difficult to determine the directions in which corporatism is moving"<sup>20</sup>.

As the aim of this paper is to analyse the involvement of employers' associations and trade unions in the process of amendment of the Romanian Labour Code and given that the neo-corporatist model of interest representation leaves aside the role of social actors in the policy processes, our attention is drawn to the analytical framework proposed by Knoke in a comparative study focused on labour policies in Germany, Japan and United States. Four analytical dimensions are taken into account in this attempt: *the policy actors*, *the power relations*, *the policy interest*, and *the collective action*, through which the author considers that a researcher can describe and analyse a "domain's policy making process"<sup>21</sup>.

This kind of analysis implies to focus on the variety and the nature of actors involved in the policy process, in order to be able to highlight afterwards the power relations among them. From a general point of view, this approach is similar to the analytical dimensions proposed by Philippe Schmitter. Nevertheless, two other particular aspects enlarge this analytical framework: *the policy interest* and *the collective action*.

As we cannot study the labour policies as a whole, the third dimension proposed – *policy interest* – gives the possibility to focus the investigation on a particular aspect in the process of decision-making. This is why our attention is drawn to a specific *issue interest* (the amendment of the Romanian Labour Code), terms that refers to a broadly characterised "set of substantives matters that attract the attention of some domain actors"<sup>22</sup>.

*Collective action* represents the last step in analysing a process of decision-making and the involvement in it of the actors concerned. A collective action, as Knoke defined it, involves three or more organisations working together in an effort to obtain their preferred policy outcome<sup>23</sup>. The interest of the actors is at the origin of a collective action: "To say that an actor has an interest in a policy means that the outcome of a decision has consequences for this organisation and its constituents"<sup>24</sup>. Three types of collective actions can be identified: *mobilisation* (which refers to the collaboration between

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*Institutional Dynamics in the Transformation Process*, Aldershot, Edward Elgar Publishing Limited, 1995, p. 11; D. OST, "Illusory Corporatism in Eastern Europe: Neoliberal Tripartism and Postcommunist Class Identities", *Politics and Society*, vol. 28, no. 4, 2000, pp. 504-8; H. WIESENTHAL(1996), "Organized Interests in Contemporary East Central Europe: Theoretical Perspectives and Tentative Hypotheses", in A. AGH, *op. cit.*, pp. 40-58; E. IANKOVA (1998), "The Transformative Corporatism of Eastern Europe", *East European Politics and Societies*, vol. 12, pp. 222-64.

<sup>20</sup> J. BLOM-HANSEN, *art.cit.*, p. 391.

<sup>21</sup> D. KNOKE *et al.*, *op.cit.*, p. 11.

<sup>22</sup> *Ibidem*, p. 14.

<sup>23</sup> *Ibidem*, p. 20.

<sup>24</sup> *Ibidem*, p. 13.

organisations with the aim of achieving a collective goal), *publicity* (which refers to the choice of these organisations to express their preferences through the media) and *lobbying* (term related to the attempts at persuading governmental authorities to make favourable decisions). This former type of collective action will not be taken into account in our paper. As the amendment of the Roumanian Labour Code has taken place in the frame of the tripartite dialogue, we leave aside the “lobbying” dimension, understood as informal relations between organised interest and public authorities, characterized by a low degree of institutionalisation<sup>25</sup>.

### **3. The involvement of employers associations and trade unions in the process of amendment of the Romanian Labour Code (2005)**

#### **3.1. Policy actors**

##### *3.1.a. Romanian employers' associations*

The academic literature offers little substance about employers' association, in spite of the key position they hold in industrial relations in Western democracies<sup>26</sup>. There is a common view in the academic literature about the reputation of employers' associations of being less generous in responding to inquiries about their activities and internal affairs<sup>27</sup>. The Romanian case does not make any exception. Apart from a couple of articles<sup>28</sup>, the knowledge about employers and employers' associations across the region is rather limited. Meanwhile, our paper is concerned with the *emergence* of employers' associations in post-communist Romania as far as it attempts to understand the role that they play in a specific *issue interest* in labour policies: the amendment of the Labour Code.

This part of the paper highlights two particular aspects with regard to the organisational development of Romanian employers' associations: the degree of fragmentation, their main characteristic in the first years of the transition to

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<sup>25</sup> P. MUNK CHRISTIANSEN, H. ROMMETVEDT, “From Corporatism to Lobbyisme? Parliaments, Executives and Organized Interests in Denmark and Norway”, *Scandinavian Political Studies*, vol. 22, no. 3, 1999, p. 196.

<sup>26</sup> J. Windmuller, A. Gladstone (eds.), *Employers Associations and Industrial Relations. A Comparative Study*, Oxford, Oxford University Press, 1984.

<sup>27</sup> In order to fill this gap with regard to empirical data, this part of the paper is the result of a detailed examination of the employer association's statutes, publications, press releases and newspaper articles.

<sup>28</sup> A. TRIF, “Overview of Industrial Relations in Romania”, *South-East Europe Review*, no. 2, 2004, pp. 43-64; O. PLUMANDON, ‘Organisations patronales et tripartisme en République tchèque’, *Etudes du CEFRES*, no. 4, 2005.

democracy and market economy and the various attempts at organisational unification launched since 1995. By analysing the amendment of the Labour Code, we assume that for this particular *issue interest* and in spite of their internal competition in representing employers' interest in the Romanian politics, employers' associations have succeeded in establishing a common position, defended when confronted with trade unions and State authorities positions in this field.

The representation of employers' interests is far to be a tradition in the Romanian political landscape. Before the establishment of the communist regime, as the process of industrialisation was not advanced, the number of employers to organise was reduced<sup>29</sup>. After 1945, when the main goal of the communist regime was intensive industrialisation, "there were virtually no private owners"<sup>30</sup>, but only the aim of transforming Romania into "workers society".

Consequently, as in other post-communist countries, Romanian employers' associations emerge in a context in which the State must enhance its powers to reduce its powers<sup>31</sup>. Employers' organisations in this region have been created on an artificial basis with an important aid coming from the State<sup>32</sup>. Focused on the Romanian case, Aurora Trif considers that "the legislative framework adopted after 1989 supported the emergence of employers' associations"<sup>33</sup>. From our point of view, this assumption regarding the State's contribution in the formation of these new actors should be moderated for the Romanian case.

Since 1990 and until 2000 there was no legal provision stipulating the role and the mission of employers' association within the Romanian legal framework. The freedom of association has been granted in the first post-communist Constitution of the country in 1991, but the legal basis for the formation of employers' associations was the same as for all non-governmental organisations (the law 21/1924). It is in 1998 that a legislative proposal has been submitted to the Parliament in this respect. As in 2000 the members of the Senate were still discussing the draft, the representatives of employers' association and Romanian business groups<sup>34</sup> required, within a meeting with the

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<sup>29</sup> A. TRIF, *art.cit.*

<sup>30</sup> *Ibidem.*

<sup>31</sup> B. JESSOP, K. NIELSEN, J. HAUSNER, *art.cit.*, p. 11.

<sup>32</sup> F. DRAUS, *Les organisations patronales dans les pays de l'Europe centrale et orientale (Pologne, République Tchèque, Hongrie)*, Bruxelles, Institut Syndical Européen, Max Planck Institut für Gesellschaftsforschung, 2000, p. 13.

<sup>33</sup> A. TRIF, *art.cit.*, p. 46. In this article the author makes reference to the first post-communist Romanian Constitution adopted in 1991. The article 37 of the Constitutions, modified in 2003, stipulated that citizens have the right to bring together "in political parties, trade unions and other kind of associations".

<sup>34</sup> Among which the Businessmen's Association of Romania, the general Union of Romanian Industrialists 1903, the National Confederation of Romanian Employers, the National Council of Romanian Small and Medium sized Enterprises and the Romanian National Employers.



Prime Minister in office, Mugur Isaescu, a rapid adoption of the law, by an emergency ordinance<sup>35</sup>. The same argument comes from the President of the National Union of Romanian Employers, who emphasises our assumption when he states that Romanian politicians after 1989 did not support the formation of employers' associations. He argued that "*the political class, or what this meant after 1989, did not vote for strong, well-established employers' organisations that could represent a force in Romania's economic and societal environment*"<sup>36</sup>. Under these conditions, the employers' movement in Romania was rather concerned about its existence than about the economic transition<sup>37</sup>.

However, Romania has the highest number of employers' associations in comparison with other countries in the region. Until 2000, employers' representation was dominated by 10 representative confederations<sup>38</sup>, while there is just one in Estonia and Latvia, two in Poland, Lithuania and the Czech Republic and nine competing confederations in Hungary<sup>39</sup>. Thus, fragmentation is not a Romanian peculiarity. Various authors who analyse the transformation of industrial relations in Central and Eastern Europe emphasise the high degree of fragmentation of employers' association in comparison with trade unions<sup>40</sup>. Once again, in this respect, as we will see in the following part of the paper, the Romanian case is not an exception.

Two kinds of actors aiming at representing economic interest emerged in Romania since 1990. Because of the high degree of fragmentation, we borrowed from Wessels a typology realised by the author in order to face the diversity of business associations in OCDE. According to this classification, there are, on one hand, associations dealing with class interest (called employers' associations) and, on the other hand, those being trade associations or political think tanks of business not involved in the wage bargaining at all<sup>41</sup>. Thus, bearing in mind this classification, a close look at the year of establishment of Romanian employers' associations shows that most of them emerged between 1990 and 1999. All of the associations in the table below are representative at the national level.

<sup>35</sup> "Oamenii de afaceri cer urgentarea legii patronatelor", *Capital*, n° 19, 11 Mai 2000.

<sup>36</sup> MARIAN PETRE MILUȚ, President of the National Union of Romanian Employers, "Rolul mișcării patronale/The Role of Employers' Movement", <http://www.unpr.ro/english/rolmiscare.php>

<sup>37</sup> "Patronatul în derivă", *Capital*, n° 48, 30 November 2000.

<sup>38</sup> A. TRIF, *art.cit.*, p. 47.

<sup>39</sup> M. MAILAND, J. DUE, "Social Dialogue in Central and Eastern Europe: Present State and Future Development", *European Journal of Industrial Relations*, vol. 10, no. 2, 2004, p. 182.

<sup>40</sup> T. COX, B. MASON (2000), "Interest Groups and Tripartism in East Central Europe", *European Journal of Industrial Relations*, vol. 6, no. 3, 2000, pp. 325-347; M. MAILAND, J. DUE, *art. cit.*

<sup>41</sup> B. WESSELS, "Systems of Economic Interest Groups and Socio-Economic Performance", Paper prepared for delivery at the 1996 Annual Meeting of the American Political Science Association, August 29-September 8, 1996.

Year of establishment	Employers' Associations
1990	PNR (Romanian National Employers) ARACO (Romanian Association of Building Entrepreneurs) CNIPMMR (National Council of Romanian Small and Medium-sized Enterprises)
1991	UNPR (National Union of Romanian Employers)
1992	CONPIROM (Employers Confederation of Romanian Industry) CoNPR (National Council of Romanian Employers) UGIR (General Union of Romanian Industrialists) CNPR (National Confederation of Romanian Employers)
1994	UGIR 1903 (General Union of Romanian Industrialists 1903)
1999	VITAL (VITAL Confederation)

In parallel, different other associations emerged with the aim at representing encompassing or specific economic interests: the Businessmen's Association of Romania (created in 1994), the Romanian Banking Association (1991), the European Initiative of the Business Environment, without neglecting the metamorphosis of the Chamber of Commerce and Industry of Romania and Bucharest.

Aware of their weakness as a result of this fragmentation, the employers' associations took the initiative to "unify" the Romanian employers' movement. A first step in this sense was made in 1995, when 5 employers' association established a common association (called Romanian Employers<sup>42</sup>) with the aim at representing their interests at national and European level. As this umbrella association had a short existence, in 1999 the Businessmen's Association of Romania (AOAR)<sup>43</sup> launched again this debate. A new umbrella association is created in 1999, called the Employers' Confederation of Romania<sup>44</sup>, with a membership not too much different from the previous one. In 2004 Romania was the only Central and Eastern European country with no representative within the Union of Industrial and Employers' Confederations of Europe (UNICE). As the high degree of fragmentation was the main remark coming from their European

<sup>42</sup> This association was composed by the National Confederation of Romanian Employers (CNPR), the National Council of Romanian Small and Medium-sized Enterprises (CNIPMMR), the National Union of Romanian Employers (UNPR), the National Council of Romanian Employers (CoNPR) and the Romanian National Employers (PNR) – C. BARLEA *et. al.*, *Ghidul pentru dialog social și parteneriat din România*, Bucharest, Proconsult, Valahia, Institutul Manager, 1997, p. 143.

<sup>43</sup> "Its members are owners and managers of companies in all economic fields, active in Romania and in the large business centres all over the world, with a total turnover of more than one billion US \$", AOAR, "Presentation", [http://www.aoar.ro/pres\\_eng.htm](http://www.aoar.ro/pres_eng.htm)

<sup>44</sup> The Employers' Confederation gathered 51 nationally representative employers' confederations, branch and regional employers' federations and various professional associations, as for example the National Confederation of Romanian Employers (CNPR), the National Council of Romanian Small and Medium-sized Enterprises (CNIPMMR), the National Council of Romanian Employers (CoNPR), the Romanian National Employers (PNR), the National Association of Romanian Exporters and Importers (ANEIR) and the AOAR.

homologues in response to the Romanian demands of affiliation, in 2004 two main alliances are established, both created with the aim at unifying the movement and at obtaining recognition within the European/international employers' associations: the Romanian Employers' Confederation<sup>45</sup> and the Union of Romanian Employers<sup>46</sup>. The only Romanian employers' association that preferred to stay outside these attempts at unifying the employers' movement is the UNPR (the National Union of Romanian Employers).

Thus, as a preliminary conclusion, concerning the organisational development of Romanian employers' associations, note should be taken that the degree of organisational fragmentation tends to decrease. Additionally, the aim of this paper is to demonstrate that a similar trend could be observed with regard to interest representation when confronted with the State or trade unions' positions.

### *3.1.b. Trade unions*

As the previous part of the paper was concerned with the organisational development of employers' associations, in what follows we will try to briefly reveal the main features of the trade union movement in post-communist Romania. By doing this, we will show that, as in the case of employers' associations, the labour actor has been characterised by a high degree of fragmentation too, that unions succeed in overcoming during the debates to the Labour Code.

Historically, concerning the development of labour organisations, the Romanian case does not make an exception in the region. All over Eastern European borders, trade unions are merely developed between the two world wars. The retarded modernization is a common characteristic for the entire region, with the notable exception of Czechoslovakia, where a remarkable industrial development is noted, in the context of the parliamentary democracy. More specifically, regarding Romania, it has not a deep-rooted tradition of trade unionism. In a nutshell, as an important characteristic, Romanian trade unions develop under a strong incentive from the social-democrats and not as a spontaneous gathering of the working class. Following a regional common pattern, during the communist regime, trade unions were far from being independent. Indeed, with the exception of Solidarnosc in Poland, trade unions

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<sup>45</sup> In fact, in March 2004, the Romanian Employers' Confederation defines a new strategy in order to become member of UNICE: it changes its name in the Alliance of Romanians Employers' Confederations (ACPR) and includes new members (the Romanian Banking Association, ARB, the Romanian Employers Confederation of Industry, Services and commerce, CPISC and the Romanian Association of Building Entrepreneurs, ARACO) ("Patronatele fac alianțe și uniuni din dorința de a deveni reprezentative", *Gardianul*, 23 March 2004).

<sup>46</sup> At the opposite side, the Union of Romanian Employers (UAR) gathers together the Romanian Employers, UGIR 1903, UGIR, PNR, the National Council of Romanian Employers (CoNPR) and CNIPMMR (previously member of the concurrent umbrella organisation) ("Alianța Patronatelor", *Jurnalul Național*, 24 March 2004).

served as an instrument in controlling the workplaces. In this way, they fill out the role of “transmission belt”<sup>47</sup>. From the organisational point of view, in 1966 a unique structure is created, gathering all member unions, named the General Trade Union Confederation of Romania<sup>48</sup>. Consequently, there was an important functional and organisational underdevelopment, which further stamped the post-communist destiny of the trade unions.

During the post-communist period, several aspects related to the trade unions' organisation derive from the legislative provisions in the matter. The creation and functioning of trade unions are included mainly in the Constitution adopted the 8<sup>th</sup> December 1991<sup>49</sup> and in the law concerning trade unions more specifically, law 54/1991, modified in 2003<sup>50</sup>. A national representative trade union must be recognized by court and then sanctioned by the government; for this, it must gather 5% of the active population, 1/3 of the economic sectors and 1/2 of the regions of the countries<sup>51</sup>.

As such, the decentralisation of trade unionism is a direct consequence of the legal framework, three levels of interest representation being in place: enterprise level, sectoral level and national confederation, each one with its particular juridical personality and statutes<sup>52</sup>. Mihes and Casale argue that one important outcome of trade union freedom is that various trade unions may be established in the same industry, in the same field of activity or even in the same enterprise<sup>53</sup>. As the authors underline it, at a more general level, this raises the question of the “adequate manner” of interest representation and of efficacy in promoting general interest. Taking into account these elements, we argue more precisely that to this particular setting, trade unions' potential of coalition is *ex ante* limited, therefore their relevance in terms of supporting policies and social interests is relatively low.

At present, only five national confederations are fulfilling the criteria for representativeness from 2003<sup>54</sup>: the National Confederation of Free Trade

<sup>47</sup> Since 1968, trade unions are part of the “Democratic Front and Socialist Unity”, mass organisation that affiliates all the organisations subordinated to the party. Trade unions are active in all branches and are organised at central level by the General Trade Union Confederation of Romania (UGSR), no other trade union activity being authorised. Party's monopoly on this structure is absolute, the leader of the Confederation is subordinated to the communist party's secretary and party's activists are also members of the trade union.

<sup>48</sup> A. TRIF, *art.cit.*, p. 52.

<sup>49</sup> The right of forming trade unions is guaranteed by article 37, paragraph I of the Constitution – “citizens can freely form political parties, trade unions and other associational forms”.

<sup>50</sup> Law No. 54/24 January 2003, published in *Monitorul Oficial* No. 073, 5 February 2003.

<sup>51</sup> F. DRAUS, *art.cit.*, p. 13.

<sup>52</sup> C. MIHES, G. CASALE, “Industrial Relations in Romania”, in G. Casale (ed.) *Social Dialogue in Central Eastern Europe*, International Labour Office Central and Eastern European Team, Budapest, 1999, p. 275.

<sup>53</sup> *Ibidem*.

<sup>54</sup> Apart from these five main confederations, other trade unions partially fulfil the representative criteria, but they are sometimes admitted to negotiations and are bargaining freely with employers' associations. One of the best examples is the Confederation of Non-Aligned Trade Unions, a confederation that declared, since its foundation (formed the 10<sup>th</sup> November

Unions from România – Frăția (CNSLR-Frăția), the National Trade Unions Bloc (BNS), the National Confederation of Trade Unions “Cartel Alfa” (CNS “Cartel Alfa”), the National Confederation of Democratic Trade Unions from Romania (CSDR) and the Confederation Meridian<sup>55</sup>.

<i>Year of establishment</i>	<i>Trade Unions</i>	<i>Membership</i>	<i>Represented sectors</i>
1990	CNSLR-Frăția <sup>56</sup>	800.000 <sup>57</sup>	Present in almost all the sectors
1991	BNS	375.000 <sup>58</sup>	Transports, energy, car manufacturing, telecommunications, health, public administration
1990	Cartel Alfa <sup>59</sup>	325.000	Mines, education, banks, tourism, agriculture, transports, public administration
1994	CSDR	345.000	Education, health, food industry, textiles
1994	Meridian	170.000	Mining, metallurgy, chemicals

Source: Websites of trade unions, Ciutacu *et al.* (2001), Peyroux (2002: 94)

We can already notice that one of the most important characteristics of trade unionism in Romania is the particular fragmentation of the national

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1993), the independence and neutrality in respect to the government, political parties and trade unions. There are also some strong federations at sectoral level (in mining, education, commerce, health) and also some small trade unions that are not affiliated. See C. CIUTACU, S. PERT, V. VASILE, *Rapport sur le dialogue social en Roumanie*, à la demande des partenaires sociaux européens CES/UNICE-UEAPME/CEEP, 2001, p. 7.

<sup>55</sup> Meridian confederation was formed in 1997 and replaces the Romanian Coal Workers Trade Union Confederation (CSMR) formed in 1991 by coal workers from the Jiu Valley. We did not succeed in obtaining much information about its functioning and activities, but we took note of the unanimous opinion of several trade union leaders from other confederations that argued about the marginal role of Meridian in Romanian trade union movement.

<sup>56</sup> CNSLR-Frăția is, in the first years following the fall of the communist regime, a distinct organization. In 1990, CNSLR is formed on the basis of former communist structures, and in the same year the Frăția trade union is also formed. They merge in 1993.

<sup>57</sup> [www.cnslr-fratia.ro](http://www.cnslr-fratia.ro)

<sup>58</sup> [www.bns.ro](http://www.bns.ro)

<sup>59</sup> Cartel Alfa covers 36 professional federations, 3 trade unions' *centrales* (federation of specific sectoral federations). These sectoral federations are : the Confederative National Confederation of Romanian Coal Workers Trade Unions, Agricultural *Central* CERES and National Trade Union *Central* Alfa Metal (metallurgy, siderurgy) – (O. PEYROUX, *Pouvoir et démocratie en Roumanie : le rôle des contre-pouvoirs associatifs et syndicaux*, DHERS de Sociologie sous la direction de Maxime Haubert, Université Paris I, 2002, p. 94)

landscape. Indeed, trade unions have moved from the subordinate position and the organisational unity during communism to organisational fragmentation and various ideological orientations<sup>60</sup>.

Besides these important features concerning the organisation of the labour actor, we should also take notice of some aspects related to the post-communist context in which trade unions represent interests. The most important challenges refer to the economic de-industrialisation of an obsolete industry, the creation of a private sector in economy, the development of an entrepreneurial class and the reform of labour relations<sup>61</sup>. These essential aspects entitle us to believe that social-economic factors played an important role in increasing the difficulty of the labour actor in focusing on representing interests. Directly related to our present research on the Labour Code amendments, we believe that besides the high degree of fragmentation, the socio-economic context also prevented trade unions from adopting a more unified approach and position.

### 3.1.c. State

As it was previously argued, both employers' associations and trade unions emerge in a particular political and economic context, in which the State has to enforce its powers to reduce its powers. The State was invited by the European and other international institutions, that have scrutinised the progresses accomplished by this country over the last few years, to contribute to the formation of these new social actors in order to enable them to take effectively part in the domestic policy-making process in the context of the European accession.

Nevertheless, as it has been highlighted in a previous section of this article, with regard to the employers' association the legal framework concerning their creation and role on the Romanian political landscape has not been adopted without difficulties. This is why in 2001, the European Commission, in its Regular Report, recommended to the Romanian government "to help the social partners to develop their capacities before they can play an active role in the EU context"<sup>62</sup>.

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<sup>60</sup> National confederations declare different ideological orientations, but this is mainly derived from their international affiliation, than from stable relations with political parties. CNSLR-Fratia and BNS proclaim themselves as Social democrat and are members of the International Confederation of Free Trade Unions (ICFTU), Cartel Alfa and CSDR are Christian democrat, affiliated to the World Confederation of Labour (WCL). They all are members of the European Trade Union Confederation (ETUC). Compared to employers' associations, trade unions become more quickly integrated into international structures.

<sup>61</sup> H. VAN ZON, "Alternative Scenarios for Central Europe" in J. HAUSNER, B. JESSOP, K. NIELSEN, *op.cit.*, p. 116.

<sup>62</sup> *Regular Report on Romania's Progress towards Accession* (2001), Commission of the European Communities, pp. 66-67.

Since the collapse of communism, the State monopolised the decision-making process in the field of industrial relations, partly because of the “weakness” of both trade unions and employers’ associations. However, the representatives of employers’ associations consider that the State was not very interested in collaborating with them<sup>63</sup>. According to some representatives of employers’ associations, the State took different engagements at the international level without consulting the associations, even if they were the main actors concerned. Consultation often took place outside the tripartite framework and on the initiative of employers’ associations or trade unions<sup>64</sup>.

### 3.2. Power relations

Tripartite arrangements can further illustrate the State’s main impact, as well as the reduced role of the other two social actors. In order to better illustrate this assumption, we will briefly assess the main features of tripartism in Romania throughout the transition period. Indeed, this aspect allows us to present the power relations that trade unions and employers’ associations have with the State.

As in other neighbouring countries, tripartite institutions emerge in Romania too. Contrary to other CEECs, a tripartite institution becomes formal rather late in Romania, more precisely, in 1997, when the Economic and Social Council (CES) begins to function<sup>65</sup>.

Without any doubt, tripartism is contributing to the legitimisation of social actors and to their consolidation as government’s partners in economic and social issues. Even more, the tripartite system is also serving government’s interests, because it realises a large social consensus on economic reforms, which have a high-cost social impact. During the transition period, several

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<sup>63</sup> “Oamenii de afaceri au fost iar la Cotroceni. DA dialogului cu puterea, NU alegerilor anticipate și grevei generale”, *Azi*, 23 March 1999.

<sup>64</sup> In order to highlight the peculiarities of this collaboration, there is one illustrative example. In 1999, when the international financial institutions refuse Romania’s request for a financial support, the Romanian State reorients its demand to the Romanian employers, who engage themselves on the international capital market in order to help the State with a loan<sup>64</sup>. This example determines us to moderate the idea of the weakness of employers’ associations and to further highlight the idea that more attention should be paid to conceptualising distinctive criteria in defining the “weakness” of social actors (“AOAR vrea să împrumute 300 mil. \$ de pe piața externă”, *Ziarul Financiar*, 24 March 1999).

<sup>65</sup> At present, 27 members compose the CES, each part (government, trade unions, employers’ associations) delegating 9 members. The Council has mainly an advisory role and can propose legislative measures regarding the restructuring and development of the economy, privatisation of enterprises, monetary and fiscal policies, education, research and culture. On labour conflict issues, the CES has the role of a mediator, analysing causes and proposing solutions. The institution also monitors the respect of international labour legislation, stipulated by the ILO Convention no. 144 from 1976 – [www.ces.ro](http://www.ces.ro).

agreements are signed, in order to ensure the social peace necessary to the implementation of reforms.

Nevertheless, as in other CEECs, Romanian tripartite framework has encountered numerous problems of functioning and we can notice the imbalance of power between the labour actor, the employers' associations and the State. Indeed, governmental authorities are establishing the agenda and in many cases social partners' positions have been ignored. Labour marginalisation has been frequent in Romania, which is not an exception at regional scale<sup>66</sup>. Many important issues regarding social and economic aspects are frequently discussed in the parliamentary arena, from which social actors are often excluded<sup>67</sup>. Debates are almost entirely held with the government, and social partners do not participate in negotiations of international agreements (with the IMF, WB, European Union etc). Tripartism lock-out has been noticed and the development of social dialogue was the object of numerous critics<sup>68</sup>.

Focusing on the Labour Code amendment, in the next section we will try to demonstrate that in this particular issue labour unions and employers' associations have put an end to this situation and by freely negotiating, without further involvement of the State, they comply with their representational mission.

### ***3.3. Issue interest – the amendment of the Labour Code***

The amendment of the Labour Code has been taken here as example in order to illustrate the role played by these actors in order to test our hypothesis.

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<sup>66</sup> This phenomenon is common to other CEECs as well. In the Czech Republic, Klaus' government has systematically tried to marginalise tripartite structures: the General Agreement, a declaration on the minimum wage, wage indexation, social policy and employment, established in January 1991 was, in many occasions, not respected by the government (See POLLERT, A., 1999, POLLERT, A., 1997, 3 (2): 203-228). In Bulgaria, the National Council for Tripartite Collaboration was criticised on many occasions by the trade unions, being considered as an "instrument" in the hands of the government (See PETKOV, K., GRADEV, G., 1991; COX, T., MASON, B., 2000, 6 (3): 325-347).

<sup>67</sup> D. SANDOR, "Consiliul Economic și Social și dialogul social. Raport de evaluare : performanțe, vulnerabilități, oportunități și riscuri", *Programul "Action Plan to Promote the Culture and Practice of Social Dialogue and of Participation of Civil Society and Related Networks in the South Eastern European Region (Romania)"*, p. 11.

<sup>68</sup> As for example in November 2002, when four national union confederations (Cartel Alfa, BNS, CSDR, Meridian) and two employers' associations (General Union of Employers from the Romanian Industry and the National Council of Employers from Romania) announced their intention of walking out the tripartite institution, because of the "complete marginalization of social partners and of the social dialogue concept"<sup>68</sup>. In their view, only 30% of law projects that have been adopted have also been submitted to the CES and less than 1% of the remarks of the social partners have been integrated.



As in other policy matters, throughout the transition, labour legislation in Romania has had to be amended in order to ensure full alignment with the social policy *acquis* and with the international norms. In spite of these obligations, from the European Commission's point of view, since the beginning of the negotiations of accession and until 2002, not many legislative developments could be recorded in this field.

Among the legal provisions to be adopted, the approval of a new Labour Code was a particular priority. In 2003, the Labour Code elaborated in 1973 was still in force, with the exception of certain amendments related for example to the abrogation of political duties of the workers, the reduction of the working time from 48 hours per week to 40 hours and the removal of the obligation to ensure employment stability<sup>69</sup>. The drafting process of this new Labour Code started in 2000, but it entered into force only in March 2003. As in this paper our attention is focused on the second revision of the Labour Code, which took place in 2005, we will not get into details about this first drafting process. Meanwhile, before going any further, we consider important to introduce some empirical data in order to understand the positions and the power relations between the actors involved in the process of amendment of the Labour Code in 2005.

The Labour Code adopted in 2003 offered a series of privileges to trade unions. Many articles were ambiguous and did not offer the legal endorsement so business associations can take the necessary measures in cases of inadequate accomplishment of duties from the part of employees. As a matter of fact, employers' associations expressed their discontent about these new amendments, claiming that their points of view were not properly considered in the drafting process<sup>70</sup>. For them, the Code, in the shape adopted in 2003, was encouraging moonlighting, reducing labour's productivity, increasing taxes and generating bankruptcy<sup>71</sup>. As a representative of an employers' association stated: "the new Code transformed enterprises into social welfare institutions"<sup>72</sup>. Under these conditions, employers' associations, on an individual basis in an initial phase and commonly afterwards, required its revision in order to ensure certain equity between labour and employers<sup>73</sup>. In May 2003, seven employers' associations, those which founded a year later the Union of Romanian Employers (UAR), demanded to the government the modification of the Code.

Although all these demands coming from employers' associations had had no impact on the state authorities' position, in 2004, in order to assume the obligations of the EU membership, but also other international requirements,

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<sup>69</sup> A. TRIF (2004), *loc.cit.*, p. 45.

<sup>70</sup> "Patronii cer modificarea legii intrate în vigoare la 1 martie 2003", *Jurnalul Național*, 7 May 2005.

<sup>71</sup> *Ibid.*

<sup>72</sup> *Ibid.*

<sup>73</sup> Statement of the representative of UGIR 1903 (General Union of Romanian Industrialists 1903), "Patronii cer modificarea legii intrate în vigoare la 1 martie 2003", *Jurnalul Național*, 7 May 2005.

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the Romanian government faced the need to amend the Labour Code entered into force in 2003. These international requirements were formulated by international financial institutions, like the World Bank, the IMF and foreign investors, in relation with the flexibility of the market and extensive business opportunities in Romania. The process of amendment had to be achieved until the end of the year, but, in an electoral context, the schedule could not be fulfilled.

### ***3.4. Collective action***

Consequently, this issue becomes a major legislative priority for the new government in office at the beginning of 2005. This process of amendment proceeded into two steps.

First, the Ministry of Labour worked at the elaboration of amendments. Secondly, the Minister in office, who tried to play a role of mediation<sup>74</sup>, invited the representatives of trade unions and employers' associations to discuss the proposed amendments.

Thus, on one hand, the trade unions to a large extent against the amendment of the Code adopted in 2003, addressed to the government a first series of criticisms with regard to the modifications and debates became more intense in February 2005. The draft was considered a "World Bank product" and trade unions decided unanimously to reject all propositions when the amendments will be presented<sup>75</sup>. For these reasons, the first time when the representatives of trade unions, employers' associations met the Minister in office, the former, after having presented some general principles and once again their disapproval with regard to the content of the Labour Code under discussion, required to discuss this matter with the Prime minister in office only.

On the other hand, at the opposite side, employers' associations formulated a common position emphasising the need to amend the Code, in order to ensure the flexibility of the market and to eliminate all the confusing legal provisions. These general principles were expressed and made known to the public by *all* the employers' associations, representative at the national level<sup>76</sup>, in spite of their past controversial relations, for the most part due to the competition established among them for obtaining recognition at both national and European level.

Within the dialogue between the representatives of trade unions, employers' associations and the Minister, each of them has the opportunity to express a point of view with regard to the 63 amendments proposed by the

<sup>74</sup> Rompres, "Guvernul va adopta un nou Cod al Muncii în luna martie », 11 February 2005.

<sup>75</sup> Ziua Newspaper, 9 February 2005 – <http://www.ziua.ro/prt.php?id=3581&data=2005-02-09>

<sup>76</sup> Rompres, "Punct de vedere unitar al patronilor asupra Codului Muncii", 17 February 2005.

Public Ministry. Once again, employers' associations made known their point of view unanimously. Both the representatives of trade unions and those of employers' associations expressed their preferences via the media. On the one hand, the Alliance of Romanians Employers' Confederations (ACPR) in collaboration with the American Chamber of Commerce (AmCham) in Romania organised information campaigns emphasising the need to amend the Labour Code and explaining the importance of some amendments for the national economy<sup>77</sup>.

Regarding trade unions, they also adopted a common action on this issue<sup>78</sup>. Following Knoke *et alii* conceptual framework, labour's collective action in the Labour Code issue, as in the employers' association case, had two main dimensions, mobilisation and publicity. Compared with employers' associations, the five national confederations put in place a common schedule of protests, including actions at prefects' establishments, in departments throughout the country, participation at the euromanifestation organised by the ETUC in March in Brussels against liberalization of services on the European internal market, and a final action that would be a general strike, in order to paralyse the entire economy. On many occasions, they demanded the government's resignation. The legitimization for labour's action was increased by the participation of trade unions' representatives to the euromanifestation, Romanian national confederations declared before the event that the Labour Code issue and that government and employers' associations' attack on the interests of the workforce and their representatives would be raised in Brussels<sup>79</sup>. And as a consequence of labour's mobilisation, the bipartite discussions between social partners were marked by protests throughout the country, which mobilised the main economic sectors, as for example transports<sup>80</sup>.

<sup>77</sup> Rompres, "Patronatele au lansat un program de informare asupra necesității modificării Codului muncii", 25 March 2005.

<sup>78</sup> Particular sensitive points for them concerning the amendments to the Labour Code were related to the possible introduction of labour contracts on a determined period as a rule and not as an exception, the obligation for the employee to work after the normal program if the employer asks it or the issue of eliminating trade unions from the procedures of establishing adequate labour norms; trade unions rejected also: abrogation of the Labour Code article which stipulated that the national labour contract applies to all commercial societies in Romania; elimination of measures concerning employees' protection in case of bankruptcy; measures that endorsed employers in making arbitrarily collective and individual firings; elimination of the obligation for the employers to regularly inform employees on economic and financial issue of the society and also issues of employment relations" – *Adevărul* Newspaper, 11 February 2005.

<sup>79</sup> Trade union sources estimate that the Romanian participation was of about 1.000 trade unionists, from CNSLR-Frăția, Cartel Alfa, BNS, CSDR, and was considered the most numerous delegation from Central and Eastern Europe – [www.cnslr-fratia.ro](http://www.cnslr-fratia.ro)

<sup>80</sup> Organised labour from this sector gained an important visibility in this period. At the Labour Code issue other specific major problems were raised by the National Convention of Transports, like the negotiation of a new labour contract for railways. This sectoral structure reunites almost all trade unions from this branch. The president of the National Convention of

Secondly, labour realised some important publicity actions through media channels. They particularly emphasised the support of main external actors, like the International Labour Organization, or to European documents, as for example the European Social Charter revised<sup>81</sup>. Labour's position was also strengthened by the official signals from foreign institutions, like the European Trade Union Confederation (ETUC), the World Confederation of Labour (WCL) and the International Confederation of Free Trade Unions (ICFTU)<sup>82</sup>. Also, it is important to notice that the Labour Code created the opportunity for trade unions to publicly state their anger concerning labour relations and social dialogue in Romania and to demand extensive labour involvement in issues which directly concern their constituencies. In fact, trade unions' actions had the objective to defend the interest of their members, and by this, they also raised important questions that concerned more particularly labour as an organisation trying to obtain visibility and impact in the political and social life.

As a consequence, through a unified collective action, through mobilisation and publicity, labour succeeds in reaching an agreement with the employers' associations, a compromise accepted by both parts. The mobilisation was realised commonly by the five representative trade unions, which organised protest actions throughout the country and stated publicly, on numerous occasions, their common position and intention of not giving up. The relation of power that until this moment had been dominated by the State, is modified and the two social partners, trade unions and employers' associations fulfil their national representative mission and negotiate over an issue that has major consequences on both their constituencies. Furthermore, labour and employers in Romania take advantage of this legislative moment and assess their impact on social and political issues<sup>83</sup>.

#### 4. Conclusion

Our paper aimed at exploring labour and employers' associations' mobilisation in Romania during the debates for the amendment of the Labour

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Transports, Ioan Radoi, also senator of the social-democrat Party (PSD), the opposition party since the 2004 elections, combined labour related issues with political issues, further claiming that the government should resign – *Adevărul* Newspaper, 24 February 2005, *Ziua* Newspaper, 11 March 2005: <http://www.ziua.net/display.php?id=6442&data=2005-03-11>

<sup>81</sup> *9AM* Newspaper, 10 February 2005

<sup>82</sup> These organisations warned the Romanian government about the necessity of respecting the values of the European Social Model, especially those related to social dialogue and reminded that the “salvgardation clause” could be activated in the case of non-respect of social rights, which would finally postpone Romania's adhesion to the European Union: *Adevărul* Newspaper, 24 February 2005.

<sup>83</sup> Labour unions have exploited the Labour Code negotiations in order to debate on other “hot” issues, like the situation of social dialogue in Romania, or employment relations in large companies, as we mentioned the situation in the transports.

Code in 2005. Our assumption was that, in their own field of interest, trade unions and employers' associations succeed in overcoming the organisational fragmentation and the internal battle for representativeness, in order to present a common position and to negotiate as unified actors.

In order to be able to analyse each actor's mobilisation, we made appeal to Knoke's analytical framework. This allowed us, in a first part, to study the most important features of the actors involved in the process of legislative changes to the Labour Code, the employers' associations, trade unions and the State. Furthermore, we were able to apprehend the power relations between employers' them over the last few years. Several conclusions are obvious for the situation preceding the Labour Code debates in 2005.

Regarding employers' associations, we can briefly notice several aspects. First of all, there is a considerable delay in establishing a legal framework of functioning, which finally becomes effective in 2000. Second of all, until recently, the Romanian employers' associations' landscape is characterised by a very high degree of fragmentation, the task of identifying national representative organisations being very difficult. Lately, taking into account the repeated criticisms from international organisations, like UNICE and the attempts of the Romanian employers' associations to integrate such a structure, the fragmentation trend seems to be decreasing, several organisations reuniting under common structures. But overall, internal fights for visibility and representativeness inside the employers' 'associations' movement mark the great part of the post-communist period.

On the trade unions side, some aspects need to be emphasised. First of all, there is a genetically based explanation. Trade unionism experiences an historical difficulty, related to the underdevelopment from the pre-communist period, further accentuated by the communist settings. Second of all, in the post-communist period, specific factors related to the trade union movement itself are playing a decisive role. The decentralisation is sometimes an obstacle to a coherent internal decision-making process and the fragmentation of the overall movement leads to a lack of coordination between the unions<sup>84</sup>. Consequently, organisational fragmentation is followed by a fragmentation of interest, labour unions adopting mostly individual positions. Third of all, we consider that the post-communist socio-economic context and the decision-making framework contribute to the difficulty of interest representation and to the imbalance of power relations, which privileges the State. Many difficulties were produced by radical economic reforms, privatisation and de-

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<sup>84</sup> In a study on the variations in trade union effectiveness in Poland, Hungary and the Czech Republic, Avdagic draws the attention on the mode of inter-union dynamics. The author demonstrates that in Central and Eastern Europe, "rivalry and hostility between unions not only increases coordination problems, but also strengthens the government's position vis-à-vis organized labor, thus weakening its incentives to cede to labor demands" (AVDAGIC, 2003: 23).

industrialisation. Painful social costs related to these have undermined labour's social basis, overall inconsistent and diminished.

The study of the emergence of social actors and the particular context in which they act entitled us to further enlighten the power relations between the social actors and the State. We underlined the general requirement that the State should stimulate social actors' participation in the policy-making, but also State's numerous attempts of limiting social actors' intervention and marginalizing them in the tripartite institutions. That is why we consider that there is an imbalanced relationship between employers' associations, trade unions and the State. Indeed, State's authority tends to be largely dominant and social actors frequently excluded from the decision-making process.

Taking into account these observations on the nature of actors and on the power relation between them, at this moment we can briefly conclude about the Labour Code *issue interest* and the mobilisation of both employers' associations and trade unions.

Consequently, we consider that in spite of the already mentioned difficulties of collaboration and adoption of a common position, the Labour Code issue introduces a new logic both on the employers' and the union' side, a unity of interest being addressed in their camps. Overcoming fragmentation and polarisation, employers' associations and labour unions make appeal to mobilisation and publicity, two dimensions that further allow them to state their point of view and to negotiate freely, without State's intervention, on the Labour Code legislative changes.

The analysis of the process of amendment of the Romanian Labour Code invites us to observe that the collective action put in place by both employers' associations and trade unions involves not only their domestic homologues, but also a series of associations which, at the European or international level, represent labour or capital interest of their members. Another particular aspect to be highlighted is the context in which the Labour Code has been changed. Its amendment was not only a condition formulated by the European Commission in the Regular Reports, but also a condition required by international financial institutions, in order to make the Romanian business environment more attractive for investment. The participation at the drafting process of a foreign specialist, as well as the mobilisation of trade unions against his involvement, should be noted too. In further analysis it could be useful to study these external factors that intervene in this domestic process of decision-making, as well as their role in the process of unification of employers' movement.

Our present research draws light on some perspectives that need further exploring. For example, it would be interesting to investigate whether this issue is going to have an influence on other political decisions, as well as on trade unions' and employers' associations' future actions or whether it is going to remain an isolated episode.